



OFFICE OF INSURANCE REGULATION

**FILED**

**SEP 28 2007**

KEVIN M. McCARTY  
COMMISSIONER

**Dictated by: ODM**

IN THE MATTER OF:

CASE NO: 88270-06-CO

COVENTRY FIRST LLC  
\_\_\_\_\_ /

CONSENT ORDER

THIS CAUSE came on for consideration upon the agreement between Coventry First LLC ("COVENTRY") and the Office of Insurance Regulation (the "OFFICE"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the Commissioner of the Office of Insurance Regulation hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter of, and parties to, this proceeding.
2. COVENTRY is and was at all times relevant hereto licensed by the OFFICE as a viatical settlement provider.
3. The OFFICE has conducted a regularly scheduled market conduct examination of COVENTRY for the period ending December 31, 2004 ("Examination") and the OFFICE has conducted an investigation of certain records provided to the OFFICE by COVENTRY for the period ending November 30, 2006 ("Investigation") pursuant to Sections 624.307, 624.310, 624.317, 624.318, 624.321, 626.9561 and 626.9922, Florida Statutes related to COVENTRY's viatical settlement practices. As a result of said Investigation, the OFFICE issued a Notice and Order to Show Cause on May 10, 2007 ("Notice") alleging certain violations of the Florida Insurance Code.

4. COVENTRY denies that it has violated any provision of Florida law or other applicable law, rule or regulation. Nothing contained in this Consent Order shall in any way be used as an admission of liability by COVENTRY, or of any violation by COVENTRY of any law, regulation or rule of the State of Florida or of any other federal, state, or local governmental entity.

5. COVENTRY and the OFFICE have made certain representations that are material to each party's decision to enter into this Consent Order. Both COVENTRY and the OFFICE warrant that those representations are true and correct.

6. COVENTRY desires to resolve the OFFICE's Examination and Investigation to avoid the further expense and burden of a protracted investigation or litigation.

7. This Consent Order is not intended, now or in the future, to give any legal rights or remedies of any nature whatsoever to any third party.

8. COVENTRY has cooperated with the OFFICE in its Examination and Investigation.

9. COVENTRY agrees to adopt the Business Practice Enhancement Plan ("Plan") set forth in Attachment "A" hereto.

10. COVENTRY further agrees to support the OFFICE's efforts to promulgate pending Rule 69O-204.101, "Disclosure to Viator of Disbursement," which will enhance standards of viatical settlement regulation in the State of Florida and improve the disclosures viators receive from viatical settlement providers and brokers.

11. COVENTRY and the OFFICE agree that, in order to resolve all issues stated in the Report of Examination, set forth in Attachment "B" hereto and deemed incorporated into and made a part of this Consent Order, such Report of Examination shall be filed by the OFFICE.

12. COVENTRY waives a hearing in this matter, the making of Findings of Fact and Conclusions of Law by the OFFICE, and all further and other proceedings herein to which the parties may be entitled by law. COVENTRY knowingly and voluntarily waives all rights to challenge or to contest this Consent Order, in any forum, including the right to any administrative proceeding, circuit or federal court action, or any appeal. COVENTRY expressly reserves its right to a hearing and all other process due and available by law in any proceeding commenced by the OFFICE to enforce COVENTRY's compliance with the terms of this Consent Order as described herein.

13. This Consent Order resolves and concludes the OFFICE's Examination and Investigation of COVENTRY and all issues stated in the OFFICE's Report of Examination and Notice and Order to Show Cause.

14. COVENTRY agrees that it shall be subject to the following terms and conditions:

a. Within thirty (30) calendar days after the Report of Examination has been filed, COVENTRY shall file a written response with the OFFICE, detailing COVENTRY's course of action in addressing matters related to the OFFICE's Examination findings.

b. Within ten (10) calendar days of final execution of this Consent Order, COVENTRY shall implement its Business Practice Enhancement Plan set forth in Attachment "A" hereto, which is incorporated and made a part of this Consent Order. The cost of implementing the Plan is to be borne solely by COVENTRY, and is in addition to the payment required below. If a Florida statute or rule is enacted or adopted after the date of this Consent Order that addresses a practice covered by the Plan in a manner different from or inconsistent with the Plan, such statute or rule shall prevail and COVENTRY shall conform its conduct accordingly.

c. To ensure that the OFFICES's concerns related to employee conduct have been fully addressed, COVENTRY shall certify in writing within ten (10) calendar days of final execution of this Consent Order that (a) it has informed each of its employees that material violations of any provision of the Business Practice Enhancement Plan will subject the employee to termination, and (b) it has scheduled a one-hour training program for each employee focused on educating employees about the mandatory requirements of the Business Practice Enhancement Plan.

d. COVENTRY and each of its officers, directors, and employees agree to fully cooperate now and in the future with any and all examinations and investigations in regard to viatical settlement transactions governed by Florida law.

e. COVENTRY agrees to submit to an annual audit for the purpose of verifying compliance with their Business Practice Enhancement Plan, this Consent Order and applicable Florida Statutes and Rules, to be performed by an auditor of the OFFICE's choice, pursuant to a Professional Services Agreement, for the next two (2) calendar years. The cost of the audit is to be borne solely by COVENTRY, and is in addition to the payments required below. The initial annual audit, covering calendar year 2008, will be completed with the findings submitted directly to the OFFICE by the selected auditor, no later than April 1, 2009, and annually thereafter.

f. COVENTRY agrees to submit a quarterly report to the OFFICE for the next two (2) years setting out the aggregate number of transactions it facilitates involving Florida viators. The quarterly reports, sworn and attested to by an authorized representative of COVENTRY, shall be prepared as of March 31<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup> and December 31<sup>st</sup>, and shall be received by the OFFICE no later than thirty (30) calendar days from the end of the preceding quarter.

g. COVENTRY agrees to return all privileged work product documents inadvertently received by COVENTRY's counsel within five (5) calendar days of final execution of this Consent Order. COVENTRY further affirms that neither COVENTRY, its assigns, nor its counsel shall maintain a copy of any privileged work product documents.

h. Within thirty (30) calendar days of the execution of this Consent Order, COVENTRY shall; (a) pay or cause to be paid to the OFFICE a payment in the aggregate amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00), covering all administrative costs arising out of or in connection with the Examination and Investigation.

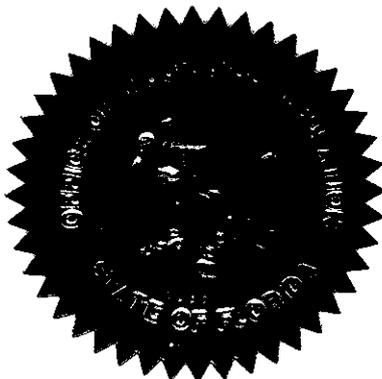
15. Except as set forth above, each party to this action shall bear its own costs and fees.

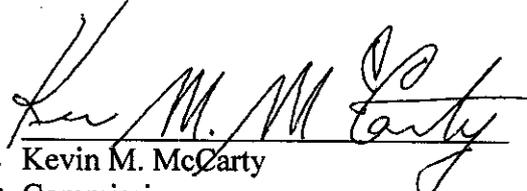
16. COVENTRY agrees that the OFFICE shall have continuing jurisdiction to enforce the requirements and provisions of this Consent Order, that the substantive law of Florida shall apply and control for purposes of interpreting, applying and enforcing any provision of this Consent Order and that the sole and exclusive venue for any action to enforce or for breach of this Consent Order shall be in Leon County, Florida.

THEREFORE, the agreement between COVENTRY and the OFFICE, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

DONE and ORDERED this 28th day of September, 2007.



  
Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation

By execution hereof, COVENTRY FIRST LLC consents to entry of this Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions therein. The undersigned represents that he or she has the authority to bind COVENTRY FIRST LLC to the terms and conditions of this Consent Order.

COVENTRY FIRST LLC

By: 

[Corporate Seal]

Print Name: Alex Seldin

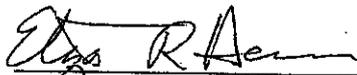
Title: Senior Vice President, General Counsel

Date: 9/17/07

STATE OF Pennsylvania

COUNTY OF Montgomery

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of September 2007, by Alex Seldin, who is personally known to me or has produced the following identification \_\_\_\_\_.



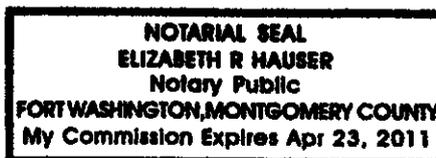
Signature of Notary

[Notarial Seal]

Elizabeth R. Hauser

Print or Type Name

My Commission Expires: 4/23/11



**ATTACHMENT "A"**  
**Consent Order 88270-06**

**BUSINESS PRACTICE ENHANCEMENT PLAN**

**I. DEFINITIONS**

1. "Coventry" shall mean Coventry First LLC f/k/a Montgomery Capital LLC and include any other Viatical Settlement Provider that is a successor, assign, subsidiary or affiliate, or any successor or assign of a subsidiary or affiliate of Coventry First LLC engaged directly or indirectly in the payment of any Compensation or expenditures to Intermediaries related to Viatical Settlement Contracts.
2. "Viatical Settlement Contract" is statutorily defined pursuant to Section 626.9911, Florida Statutes.
3. "Viatical Settlement Provider" is statutorily defined pursuant to Section 626.9911, Florida Statutes.
4. "Compensation" shall mean any form of remuneration, recompense or benefit of more than \$100.00 in amount or value given to an Intermediary directly or indirectly by, or at the direction of Coventry, as consideration for a Viatical Settlement Contract, including, but not limited to, money, credits, deferred payments, loans, advertising or marketing expenses, forgiveness of principal or interest, vacations, prizes, gifts or the payment of employee salaries or expenses.
5. "Deferred Compensation" shall mean Compensation accrued in connection with one or more Viatical Settlement Contract(s), payment of which is contingent upon completion of a future Viatical Settlement Contract(s). "Deferred Compensation" shall not include situations involving multiple life insurance policies relating to the same owner or insured involved in a single transaction or involving one or more Viatical Settlement Contracts.

6. "Contingent Compensation" shall mean any Compensation paid directly by, or indirectly at the direction of, Coventry, that is contingent upon: (a) the recipient achieving a particular level of profitability in Viatical Settlement Contracts with Coventry; (b) the completion of any future transaction or contract by that Intermediary or another Affiliated or Unaffiliated Intermediary; or (c) Deferred Compensation.

7. "Intermediary" shall mean any Viatical Settlement Broker, as defined by Section 626.9911, Florida Statutes, or any "Viator's Representative" as that term is defined herein.

8. "Viator's Representative" shall mean any attorney, licensed Certified Public Accountant, registered investment advisor or other person or entity, who is retained to represent the Viator and whose compensation is paid directly by or at the direction and on behalf of the Viator and does not meet the definition of a Viatical Settlement Broker as defined by Section 626.9911, Florida Statutes.

9. "Viator" is statutorily defined pursuant to Section 626.9911, Florida Statutes.

10. "Gross Offer" shall mean the lump sum amount or bid Coventry provides to an Intermediary which represents the total amount offered by Coventry to purchase one or more life insurance policies, inclusive of any and all Compensation payable in connection with a given Viatical Settlement Contract.

## II. GENERAL PROVISIONS

Effective for all Viatical Settlement Contract transactions entered into after the 10th calendar day following final execution of the Consent Order, Coventry shall adhere to the following practices to protect the interest of Viators.

11. Coventry shall include in closing packages for all Viatical Settlement Contract transactions a disclosure statement in printed form stating, as applicable, that either (1) no Intermediary received Compensation in connection with the Viatical Settlement Contract; (2) one Intermediary received Compensation in connection with the Viatical Settlement Contract; or (3) more than one Intermediary received Compensation in connection with the Viatical Settlement Contract. For purposes of compliance with this paragraph, the disclosure language contained in Exhibit B.1 shall be deemed, upon entry of the Consent Order, to be acceptable for use. Coventry shall maintain a copy of each disclosure statement required by this subparagraph on all Viatical Settlement transactions governed by Florida law, on which an offer is made, even if the policy is not subsequently purchased, for a period of four (4) years from the date of disclosure or as required pursuant to Section 626.9922, Florida Statutes.

12. If Coventry receives a written request from a Viator seeking information about compensation to Intermediaries in connection with a Viatical Settlement Contract to which the Viator is a party, Coventry shall provide the requested information in written form within five (5) business days of receipt of such disclosure request. Coventry shall maintain a copy of any such written request, together with a copy of its response, on all Viatical Settlement transactions governed by Florida law, on which an offer is made, even if the policy is not subsequently purchased, for a period of four (4) years from the date of disclosure or as required pursuant to Section 626.9922, Florida Statutes.

13. Coventry shall obtain from each Intermediary receiving Compensation in connection with a Viatical Settlement Contract a written statement that the Intermediary has complied with the requirements of Sections 626.99181 and 626.9916, Florida Statutes. Coventry shall maintain a copy of each statement obtained pursuant to this subparagraph as required pursuant to Section 626.9922, Florida Statutes. The total compensation paid by Coventry to all Intermediaries in connection with a particular Viatical Settlement Contract shall not exceed one-third of the Gross Offer.

14. Coventry shall support the promulgation and adoption by the Office of Insurance Regulation of pending Rule 69O-204.101, "Disclosures to Viator of Disbursements" substantially in the form attached at Exhibit B.2, and will, following adoption, comply with such regulation.

15. Coventry shall not pay Compensation to more than one Intermediary in connection with a Viatical Settlement Contract except pursuant to written instructions from an Intermediary, the Viator or the Viator's Representative. Coventry shall maintain documentation and authority related to each such written instruction involving Viatical Settlement transactions governed by Florida law for a period of four (4) years from the date of disclosure or as required pursuant to Section 626.9922, Florida Statutes.

16. Coventry shall not enter into any written or oral agreement or understanding with any Intermediary that such Intermediary refrain from soliciting or presenting a bid related to a Viatical Settlement Contract. Nothing herein shall preclude Coventry from withdrawing its own bid on a Viatical Settlement Contract.

17. Coventry shall not pay Contingent Compensation or Deferred Compensation related to any Viatical Settlement Contract.

18. Coventry shall not enter into any written or oral agreement or understanding that precludes an Intermediary from shopping or soliciting bids for a Viatical Settlement Contract, including but not limited to agreements providing Coventry with any right or preference to present the final bid in connection with a Viatical Settlement Contract. Nothing in this Agreement shall preclude Coventry from accepting a firm sale price proposed by a Viator or Intermediary. This business practice shall supersede any agreements or understandings currently in place that provide Coventry with any right or preference to present the final bid on a Viatical Settlement Contract. Nothing herein shall affect Coventry's right to make a counteroffer. Additionally, nothing herein shall affect the Viator's right not to seek or pursue a counteroffer from Coventry on a Viatical Settlement Contract.

19. Coventry shall not pay, or cause to be paid directly or indirectly, any Compensation to any Intermediary for the right to make an offer on any Viatical Settlement Contract.

20. Any and all performance-based compensation or incentives paid or to be paid to an Intermediary shall come solely from the funds of Coventry and shall not, directly or indirectly, adversely affect the Viator.

21. At least annually for the next 7 years Coventry will provide each employee a written statement summarizing the provisions of this Plan, as it may be amended and improved by Coventry from time to time; and will inform each employee that material violations of any Plan provision will subject the employee to termination. Coventry will retain in each employee's personnel file a signed acknowledgement of receipt of the written statement. Coventry will also conduct a one-hour training program for each employee focused on educating employees about the requirements of this Plan.

**BUSINESS PRACTICE ENHANCEMENT PLAN**

**EXHIBIT "B.1"**

The following disclosure, as appropriate based on the compensation paid, shall be used by Coventry First in its closing packages for Viatical Settlement Contracts governed by Florida law:

[No intermediary] [One intermediary] [More than one intermediary] received compensation in connection with this Viatical Settlement Contract.

**BUSINESS PRACTICE ENHANCEMENT PLAN  
EXHIBIT "B.2"**

Chapter 690- 204 – Viatical Settlements (07-26-07 draft)

690-204.101 Disclosures to Viator of Disbursement

(1) Prior to a viator's execution of a viatical settlement contract, the viatical settlement provider shall provide to the viator a disclosure statement in printed legible form disclosing:

(a) The name of each viatical settlement broker who receives compensation and the amount of compensation received by that broker, which compensation includes anything of value paid or given to the viatical settlement broker in connection with the viatical settlement contract; and

(b) A complete reconciliation of the gross offer or bid by the viatical settlement provider to the net amount of proceeds or value to be received by the viator. For the purpose of this section, gross offer or bid shall mean the total amount or value offered by the viatical settlement provider for the purchase of one or more life insurance policies, inclusive of commissions, fees or other expenditures related to the transaction.

(2) The disclosure statement shall be signed and dated by the viator prior to the viator's execution of a viatical settlement contract. A copy of the signed disclosure statement shall be provided to the viator.

(3) If there is any change in the viatical settlement provider's gross offer or bid amount or change in the information provided in the disclosure statement referenced in subsection

(1) the viatical settlement provider shall provide to the viator an amended disclosure statement. The amended disclosure statement shall contain the disclosures required in subsection (1) and shall clearly identify all changes from the previous disclosure

statement. The amended disclosure statement shall be signed and dated by the viator. A copy of the amended disclosure statement shall be provided to the viator.

(4) Prior to a viatical settlement provider's execution of a viatical settlement contract, the viatical settlement provider shall obtain the signed and dated disclosure statement and any amended disclosure statement(s) referenced in subsection (2) from each viatical settlement broker receiving compensation; to include anything of value paid or given to the viatical settlement broker in connection with the viatical settlement contract; or the viator, in transactions where no broker is used.

(5) The documentation required in this section shall be maintained by the viatical settlement provider for the duration set forth in Subsection 626.9922(2), Florida Statutes and shall be available to the office at any time for copying and inspection upon reasonable notice to the viatical settlement provider.

Specific Authority 624.308(1), 626.9925, F.S. Law Implemented History

**ATTACHMENT "B"**  
**Consent Order 88270-06**

Financial Services Commission  
Office of Insurance Regulation  
Tallahassee, Florida  
September 11, 2007

### **Report of Examination**

#### **Viatical Settlement Provider**

Pursuant to the provisions of section 626.9922, Florida Statutes, an examination was conducted of the books, records, and affairs of:

Coventry First, LLC  
7111 Valley Green Road  
Ft. Washington, PA 19034-2209

#### **Scope and Objective**

The examination covered the period from the date of licensure through December 31, 2004. The objective of the examination was to determine the extent of compliance with the provisions of Chapter 626, Part X, Florida Statutes. The company acknowledged participation in financing of premiums through an affiliate and a financial institution; however, the scope of this examination did not extend to this activity.

#### **General Comments**

Coventry First, LLC (formerly known as Montgomery Capital LLC and hereinafter "company" or "Coventry") was granted a license, by the Department of Insurance (now known as the Office of Insurance Regulation, hereinafter referred to as the "Office") on April 26, 2001 to act as a viatical settlement provider pursuant to the provisions of Chapter 626, Part X, Florida Statutes. This is the first examination of the provider's records since license #69011 was issued.

#### **Findings and Recommendations**

##### **Anti-Fraud Activities**

Section 626.99278, Florida Statutes, requires every licensed viatical settlement provider to adopt an Anti-Fraud Plan and submit it to the Division of Insurance Fraud. Each anti-fraud plan shall include, in part: (1) a description of the procedures for detecting and investigating possible fraudulent acts and procedures for resolving material inconsistencies between medical records and insurance applications and (2) a description of the procedures for the mandatory reporting of possible fraudulent insurance acts and prohibited practices set forth in s. 626.99275 to the Division of Insurance Fraud.

Section 626.99275, Florida Statutes, further provides that it is unlawful to knowingly enter into, broker, or otherwise deal in a viatical settlement contract the subject of which is a life insurance policy, knowing that the policy was obtained by presenting materially false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information concerning any fact material to the policy, where the viator or the viator's agent intended to defraud the policy's issuer. In addition, any licensee who suspects that a policy has been obtained by means of a fraudulent act is required to file a report with the Division of Insurance Fraud pursuant to section 626.989(6), Florida Statutes.

Coventry has adopted an Anti-Fraud Plan and submitted it as required. The plan provides, in part, for:

- A review of the policy and medical records for any material discrepancies by an internal medical underwriter,
- A similar review by an external medical underwriter,
- Another analysis if any material discrepancies are noted.
- Regardless of the outcome of the second analysis, any material discrepancy is to be conveyed to an officer of the company.

The examination confirmed that Coventry generally employs an outside firm to perform an analysis of any Florida file being considered for purchase. A summary of the outside firm's findings ("Insurance Application Review") is provided to Coventry which details inconsistencies between the information contained in the application for insurance and the insured's medical records.

For 28 of 49 Florida files in the examiner's sample, the Insurance Application Review disclosed inconsistencies between the information contained in the application for insurance and the insured's medical records. No documentation was available to support that an internal review had been conducted, that discrepancies noted by the outside firm had been researched and resolved, or that the file had been referred to an officer of the company.

Further, for several of these policies, the insured failed to disclose certain medical conditions on the insurance application, indicating possible fraudulent insurance acts. However, none of these policies appear to have been reported to the Division of Insurance Fraud by Coventry. Coventry indicates that its analysis concluded that the omissions were immaterial to the transaction. To ensure compliance with Florida Statutes, management should take action to: 1) comply with the company's anti-fraud procedures along with fully documenting resolution of discrepancies and 2) report concerns to the Division of Insurance Fraud where appropriate.

In addition, there was no evidence that an anti-fraud review was performed on several files that lacked the original applications for insurance nor was there evidence of any review for accuracy of disclosed insurance (in force at the time of application). Several viator files evidenced multiple policies on the same insured under review by the company; however, discrepancies between policies known to be available for viatication and the coverage disclosed on the application for insurance were not notated.

We suggest management consider changes in the company's anti-fraud procedures to: 1) ensure original applications are obtained on all policies, including converted and split policies, and that these policies are subjected to anti-fraud review and 2) include an additional review in instances where the company is aware of the existence of multiple policies on the same insured, including documentation of steps taken to resolve, discrepancies noted in applications under consideration.

### **Contestable Policies**

Except in certain limited circumstances as provided in section 626.99287, Florida Statutes, if a viatical settlement contract is entered into within the 2-year period commencing with the date of issuance of the insurance policy or certificate to be acquired, the viatical settlement contract is void and unenforceable by either party. In this regard, the company's Anti-Fraud Plan states "...it is Coventry's policy not to purchase policies still in the contestable period" and "If a case falls within contestability, it is declined internally".

However, the examination disclosed contestable policies are not routinely declined. Rather, five instances were noted wherein the company made offers and received written acceptance and signed viatical settlement contracts from individuals (natural persons) during the contestable period. No documentation was in the files as to the allowable circumstance (exemption), if any, under which these policies were transacted. One viatical settlement contract was "entered into" during contestability (signed by both viator and company) in violation of section 626.99287, Florida Statutes, and is, by statute, void absent any qualifying exception. With the one exception, Coventry contends that while components of these transactions were processed during the contestability period, the transactions were not consummated until after the contestability period had expired. Nonetheless, management should ensure that the basis for any exemption is fully documented. In the absence of a valid exemption, management should refrain from purchasing policies that are still in the contestable period.

### **Notice Required**

Section 626.9924(7), Florida Statutes, requires providers to give notice to the insurer that the policy has or will become a viaticated policy, within 20 days of reaching an agreement, whether express or implied, to viaticate a policy that is within the contestable period. Further, section 626.99275(1)(c), Florida Statutes, prohibits any person from knowingly engaging in any transaction, practice or course of business intending thereby to avoid the notice requirements of section 626.9924(7), Florida Statutes.

In addition to the above five instances where agreements were reached and contracts were signed by the viator during the contestability period, the examiners noted three additional files where agreements were reached (i.e. – there was an offer by the company and acceptance by the viator) during the contestability period. However, the notice required by section 626.9924(7), Florida Statutes, was not sent to the insurers.

In addition, many of the files reviewed contained notations that the policy was contestable when received. However, the files were processed then held pending expiration of the contestability period before signing offers or contracts. As with the prior comment, Coventry contends that while components of these transactions were processed during the contestability period, the transactions were not consummated until after the contestability period had expired. Nonetheless, management should take action to: 1) design and implement usage of a formal notification letter to insurers and 2) establish file processing procedures that ensure compliance with Florida Statutes.

### **Escrow Agent**

Pursuant to section 626.9924, Florida Statutes, a viatical settlement transaction may be completed only through the use of an independent third party trustee or escrow agent. This section further requires:

- Immediately upon receipt by the trustee or escrow agent of documents from the viator to effect the transfer of the insurance policy, the viatical settlement provider must pay the proceeds of the settlement to an account managed by the trustee or escrow agent.
- Upon receipt of all viatical settlement contract proceeds, the trustee or escrow agent must release to the viatical settlement provider all documents necessary to complete the transfer of the insurance policy or certificate of insurance so that the transfer, assignment, sale, bequest, or devise may be effected.
- The trustee or escrow agent must transfer all proceeds of the viatical settlement contract within three business days after receiving from the issuer of the subject policy acknowledgment of the transfer, assignment, bequest, sale, or devise.

The examination disclosed that the escrow agent did not document the date of receipt of the documents from the viator. Consequently, the examiners were unable to determine the settlement proceeds were immediately deposited into the escrow account upon receipt of applicable documents from the viator.

Two instances were noted where payments to Florida viators were not released from escrow within three days from notification of change of ownership, as required by statute. Failure to transfer proceeds as required by statute renders the viatical settlement contract and the transfer of ownership voidable. Management should take action to ensure that the entire escrow arrangement is properly transacted and documented to ensure compliance with section 626.9924, Florida Statutes.

#### **Forms Approval**

Section 626.9921, Florida Statutes, provides that no viatical settlement contract form, escrow form or related form may be used in this state unless it has been filed with and approved by the Office. The examination disclosed addenda, amendments or "side letters" were added to viatical settlement transactions without prior approval from the Office (five variations were noted). While addendum and amendment forms have subsequently been submitted to the Office and approved, management should take appropriate action to ensure only approved forms are used in the future when dealing with Florida viators.

#### **Transfer Notification**

Pursuant to section 626.9924(8), Florida Statutes, if the owner of the insurance policy is not the insured, the provider shall notify the insured that the policy has become the subject of a viatical settlement contract within 20 days after the transfer of rights under the contract. The examination revealed that although the company's policy is to require the completion of a release form prior to viatication, Coventry did not notify the insured, after the transfer of rights, that the policy has become the subject of a viatical settlement contract. To ensure compliance with Florida Statutes, management should take action to implement post transaction notification procedures.

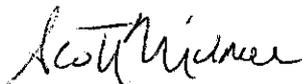
Coventry First, LLC  
September 11, 2007  
Page Six

**Reporting**

Pursuant to section 626.9911, Florida Statutes, "Viator" means the owner of a life insurance policy or a certificate holder under a group policy who enters or seeks to enter into a viatical settlement contract. "Viatical settlement contract" means a written agreement entered into between a viatical settlement provider, or its related provider trust, and a viator. The viatical settlement contract includes an agreement to transfer ownership or change the beneficiary designation of a life insurance policy at a later date, regardless of the date that compensation is paid to the viator. The agreement must establish the terms under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of all or a portion of the insurance policy or certificate of insurance to the viatical settlement provider.

The examination disclosed that nine SWAPP (Settlement with a Paid-up Policy) and Irrevocable Beneficiary policies purchased from Florida viators were not included on the Annual Reports submitted to the Office. As these policies meet the Florida statutory definitions stated above, management should take action to ensure that the all such transactions are reported to the Office.

Sincerely,



Scott Milnes  
Field Examination Section

Examination conducted by: Janice S. Davis, Scott Slaughter & Jim Patino